**Danish position on the communication *An EU Framework for Cross-Border Crisis Management in the Banking Sector***

Higher and better capital requirements, reformed EU supervisory infrastructure and other initiatives to enhance crisis prevention on a daily basis must be followed by a better EU Framework for Cross-Border Crisis prevention and resolution in order to further reduce the potential public cost of possible future financial crisis.

Denmark shares the two objectives presented in the communication, i.e.

1. "to ensure that all national supervisors have adequate tools to identify problems in banks at a sufficiently early stage and to intervene to restore the health of the institution or group, or prevent further decline" and
2. "to make it possible for cross-border banks to fail without serious disruption to vital banking services or contagion to the financial system as a whole."

**1. Early intervention**

Denmark agrees on the need to harmonize the powers of supervisors in relation to **intervention tools**. In relation to the so called "living wills" – detailing how an institution and its business might be dismantled and wound up rapidly and in an orderly manner – there is a need to elaborate further, including evaluating costs and benefits.

Denmark believes that there are merits in further work on common indicators or thresholds, and an agreed terminology between EU supervisors, which could define when and how intervention in a cross-border bank should take place. However such indicators or thresholds should not be binding in nature but be part of guidelines. Denmark believes it to be necessary that supervisors retain an adequate degree of discretion in considering how to make use of intervention tools and it should not be based on only hard triggers.

Denmark supports further work on a European framework on asset transfers to support financial stability and to prevent and mitigate financial crisis situations while at the same time assuring legal certainty and minimizing contagion risk between companies in a group. As part of this there is a need to look into best practices in relation to how to regulate intra-group exposures and transactions.

**2. Resolution**

Denmark supports the development of an EU resolution framework and finds that it should ultimately cover all types of regulated financial institutions. Deposit-taking banks can be a starting point. It should apply to both cross-border banking groups and single entities which only operate cross-border through branches.

Denmark finds that the resolution framework should cover a broad range of tools in order to enable member states to address a specific crisis most appropriately. Private sector tools have priority and the tools must be in compliance with the Treaty and State aid rules. Furthermore, guidelines regarding when the use of these tools could be considered as being in compliance with the Treaty and State aid rules would be valuable.

In relation to the right of shareholders, creditors and counterparties there is a need to limit the rights of shareholders in a resolution situation, but not creditors and counterparties. A set of common indicators and thresholds for the limitations of the rights of shareholders should be developed.

A European Resolution Authority for banking groups does not seem desirable as resolutions can impact considerably on national public budgets. Furthermore, burden sharing and resolution are also connected, and at this stage Denmark finds that concrete solutions in a crisis situation should be coordinated in the Cross-Border Stability Groups.

Denmark finds that burden sharing should be prepared as much as possible, i.e. how to define the burden, agree on the principles behind the distribution of the burden, coordination issues etc. Further investigation on how the private sector can contribute more to potential burdens is appropriate and is encouraged.

**3. Insolvency**

Denmark finds it appropriate to work towards a more integrated insolvency framework for banking groups in the longer run. .